

HUMAN SERVICES DEPARTMENT[441]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services gives Notice of Intended Action to amend Chapter 158, “Foster Home Insurance Fund,” Iowa Administrative Code.

These amendments update 441—Chapter 158 to conform to statutory changes made by 2011 Iowa Acts, Senate File 482. Division II of that legislation amended Iowa Code section 237.13, foster home insurance fund, to:

- Strike language referring to a guardian appointed on a voluntary petition pursuant to Iowa Code section 232.178 or a voluntary petition of a ward pursuant to Iowa Code section 633.557 and a conservator appointed on a voluntary petition of a ward pursuant to Iowa Code section 633.572 for purposes of defining a “foster home.”
- Strike language pertaining to guardians and conservators receiving payment from the fund for legal fees incurred in defending against a suit filed by a ward or the ward’s representative and damages awarded as a result of the suit.

These amendments remove corresponding language from the rules and update references. These changes will reserve coverage for licensed foster parents associated with the Department’s family foster care program.

Any interested person may make written comments on the proposed amendments on or before August 16, 2011. Comments should be directed to Mary Ellen Imlau, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments do not provide for waivers in specified situations because the Department has no authority to waive statutory provisions. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

The following amendments are proposed.

ITEM 1. Rescind and reserve subrule **158.1(2)**.

ITEM 2. Amend rule 441—158.2(237) as follows:

441—158.2(237) Payment limits. The fund is not liable for the first \$100 for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for ~~claims~~ damages in excess of \$300,000 for all claims ~~based on~~ arising out of one or more occurrences during a fiscal year related to a single home.

ITEM 3. Amend rule 441—158.4(237) as follows:

441—158.4(237) Time frames for filing claims.

~~4-~~ **158.4(1)** Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years of the date of the occurrence; or after the child’s eighteenth birthday, but before the child’s nineteenth birthday.

~~2. **158.4(2)**~~ Claims by persons who were aged 18 or older at the time of the occurrence, ~~parents, foster parents, guardians, or guardians ad litem~~ shall be submitted within two years of the occurrence.

~~3. **158.4(3)**~~ Claims by foster parents ~~and by guardians or conservators~~ pursuant to ~~subrules paragraph 158.1(1) “c” and 158.1(2)~~ for legal fees or court-ordered judgments shall be submitted within two years of the date of the judgment.

ITEM 4. Amend **441—Chapter 158**, implementation sentence, as follows:

These rules are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.